

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

NATHANIEL J. BUCKLEY,

Plaintiff,

v.

U. S. DEPARTMENT OF JUSTICE,

Defendant.

Complaint

1. This is an action under the Freedom of Information Act (FOIA), 5 USC §552, for injunctive and other appropriate relief and seeking the disclosure and release of agency records pertaining to Nathaniel J. Buckley (hereinafter “Buckley”) that have been improperly withheld by defendant U. S. Department of Justice (hereinafter “DOJ”) and its component the Federal Bureau of Investigation (hereinafter “FBI”).

Jurisdiction and Venue

2. This Court has both subject matter jurisdiction over this action and personal jurisdiction over the parties pursuant to 5 USC §552 (a) (4) (B). This Court also has jurisdiction over this action pursuant to 28 USC §1331. Venue lies in the district under 5 USC §552 (a) (4) (B).

Parties

3. Plaintiff Buckley is a proprietor of Burning Books, a Buffalo bookstore specializing in social justice struggles and state repression.

4. Defendant DOJ is a Department of the Executive Branch of the United States Government, and includes component entity FBI. The DOJ is an agency within the meaning of 5 USC §552 (f) (1).

Facts

5. By letter dated February 9, 2016, addressed to the FBI, plaintiff, through counsel, requested copies of all records pertaining to Buckley.

6. By letter dated February 23, 2016, the FBI acknowledged receipt of plaintiff's FOIA request. See FOIPA Request No. 1344909-000.

7. By letter dated February 6, 2017, plaintiff, through counsel, filed an administrative appeal with the Office of Information Policy (hereinafter "OIP"), a DOJ component.

8. By letter dated February 21, 2017, OIP advised counsel for plaintiff that his administrative appeal had been received on February 15, 2017 and that it had been assigned number DOJ-AP-2017-002444.

9. By letter dated March 21, 2017, OIP denied plaintiff's administrative appeal.

10. By letter dated November 20, 2017, the FBI informed counsel for plaintiff that 16 pages pertaining to Buckley were reviewed and 14 pages were released in full or in part.

11. By letter dated February 6, 2018, counsel for plaintiff filed an administrative appeal with OIP.

12. By letter dated February 20, 2018, OIP notified counsel for plaintiff that his administrative appeal had been received on February 13, 2018 and that it had been assigned number DOJ-AP-2018-002862.

13. By letter dated August 9, 2018, OIP denied plaintiff's administrative appeal.

14. Plaintiff has exhausted the applicable administrative remedies with respect to his FOIA request.

15. Plaintiff has a right of prompt access to the requested records under 5 USC §552 (a) (3) (A) and defendant failed to conduct an adequate search for responsive records and has wrongfully withheld the sought-after documents from plaintiff.

Requested Relief

Wherefore, plaintiff prays that this Court:

1. order defendant to conduct a search for any and all responsive records to plaintiff's request and demonstrate that it employed search methods reasonably likely to lead to the discovery of records responsive to the request;
2. order defendant to produce, by a date certain, any and all non-exempt records responsive to plaintiff's request and a Vaughn index of any responsive records withheld under claim of exemption;
3. enjoin defendant from continuing to withhold any and all non-exempt records responsive to plaintiff's request;
4. grant plaintiff an award of reasonable attorney fees and other litigation costs reasonably incurred in this action pursuant to 5 USC §552 (a) (4) (E) (i); and
5. grant plaintiff such other relief as the Court may deem just and proper.

Dated: March 8, 2019

Respectfully submitted,

s/michael kuzma
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